



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ALLIANCE FOR OPEN SOCIETY  
INTERNATIONAL, INC. et al.,

Plaintiffs,

- against -

UNITED STATES AGENCY FOR  
INTERNATIONAL DEVELOPMENT et al.,

Defendants.  
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05 Civ. 8209

**PRELIMINARY**  
**INJUNCTION**  
**ORDER**

**VICTOR MARRERO, United States District Judge.**

WHEREAS, Plaintiffs Alliance for Open Society International, Inc. ("AOSI") and Open Society Institute ("OSI") filed a complaint on September 23, 2005, against Defendants the United States Agency for International Development and Andrew Natsios, in his official capacity as its Administrator (collectively, "USAID"), and subsequently filed a motion for preliminary injunction with respect to USAID on September 28, 2005;

WHEREAS, Plaintiffs AOSI and OSI filed an amended complaint on December 5, 2005, adding Pathfinder International ("Pathfinder") as a third plaintiff, and adding as defendants United States Department of Health and Human Services and Michael O. Leavitt, in his official capacity as its Secretary, and United States Centers for Disease Control and Prevention ("CDC") and Julie Louise Gerberding in her official capacity as its Director (collectively, "HHS"; together with USAID,

"Defendants");

WHEREAS, Pathfinder filed a motion for preliminary injunction with respect to HHS and USAID on December 8, 2005;

WHEREAS, the Court issued a Decision and Order (the "Order"), dated May 9, 2006, granting AOSI's and Pathfinder's motions for a preliminary injunction;

IT IS THEREFORE ORDERED that,

1. Pending entry of a final judgment on the merits of the parties' dispute in this action, or until any reconsideration or modification of the Order is authorized by the Court (the "Preliminary Injunction Period"):

Defendants are enjoined from terminating, suspending, denying, refusing to enter into, or denying funding under, any cooperative agreement, grant, or contract:

- (a) between USAID or HHS and AOSI or Pathfinder;
- (b) between USAID or HHS and any other entity that provides funding to AOSI or Pathfinder under a cooperative agreement, grant or contract; and
- (c) between AOSI or Pathfinder as a sub-recipient, sub-grantee, or sub-contractor and any entity with a cooperative agreement, grant or contract with USAID or HHS;

as a means of enforcing the provision of 22 U.S.C. §7631(f) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (the "Act") requiring that, as a

condition to receiving funding under the Act, AOSI and Pathfinder "have a policy explicitly opposing prostitution" (the "Policy Requirement").

2. During the Preliminary Injunction Period, Defendants are also enjoined from taking any enforcement action of the type listed in 45 C.F.R. § 74.62, or any other measure directed against AOSI or Pathfinder that is inconsistent with the Court's Order, including, but not limited to, investigating or auditing AOSI or Pathfinder regarding compliance with the Policy Requirement or inserting the Policy Requirement in AOSI's or Pathfinder's cooperative agreements, grants and contracts for funding under the Act, unless any such cooperative agreement, grant, or contract also states that any attempted enforcement of the Policy Requirement during the Preliminary Injunction Period will be subject to this Order. For purposes of this paragraph, "cooperative agreement, grant, or contract" shall include a sub-agreement, sub-grant, or sub-contract.

3. During the Preliminary Injunction Period Defendants are preliminarily enjoined from requiring AOSI or Pathfinder to enforce the Policy Requirement against their United States-based sub-recipients, sub-grantees and sub-contractors (the "sub-organizations") provided that Plaintiffs make a showing that any such sub-organization is factually and legally similarly situated to Plaintiffs by submitting to the Court,

by letter, a brief description of such sub- organization's legal structure, history and mission, the general program activities in which it has been engaged and the specific project(s) for which Plaintiffs have provided funding received pursuant to the Act. Defendants shall have thirty days following any such submission by Plaintiffs to respond to Plaintiffs' letter by letter to the Court presenting any arguments showing cause as to why any such sub-organization does not fall within the scope and protection of the Order.

4. Defendants are directed to inform all known recipients of grants and cooperative agreements of which Pathfinder is a sub-recipient, sub-grantee or sub-contractor that, during the Preliminary Injunction Period in accordance with the Order, Pathfinder is not required to comply with the Policy Requirement. "Known recipients" shall include all entities listed on Attachment A to this Order, and any other similarly situated entity of which Defendants are aware or become aware.

Dated: New York, New York  
June 26, 2006

A handwritten signature in black ink, consisting of several loops and a final flourish, positioned above a horizontal line.

Hon. Victor Marrero  
UNITED STATES DISTRICT JUDGE

**ATTACHMENT A**

**Agreements in which Pathfinder International is a Subgrantee  
to a Primary Grant Recipient**

- ◆ **Subagreement under GPH A-00-01-00007-00**
  - Primary recipient: Pact Inc.
  - Term: August 30, 2005 - August 29, 2006
  - Purpose: Improve Sexually Transmitted Infection (STI) and HIV/AIDS prevention in Vietnam
  - Agency: USAID
- ◆ **Subagreement under 620-A-00-05-00098-00**
  - Primary recipient: Society for Family Health, Nigeria
  - Term: June 8, 2005 - June 7, 2010
  - Purpose: Improve quality of service delivery in target states in Nigeria
  - Agency: USAID
- ◆ **Subcontract under 620-A-00-04-00126-00**
  - Primary recipient: The Futures Group, LLC
  - Term: June 17, 2004 - June 16, 2009
  - Purpose: Institutional capacity building and education in HIV/AIDS prevention and reproductive health advocacy in Nigeria
  - Agency: USAID
- ◆ **Subagreement under GPH-A-00-02-001-00 and 623-A-00-03-00069-00**
  - Primary recipient: Engenderhealth
  - Term: July 1, 2005 - June 30, 2006
  - Purpose: Prevent mother to child transmission in three communities near Arusha, Tanzania
  - Agency: USAID
- ◆ **Subagreement under GPO-A-00-05-00016-00**
  - Primary recipient: Christian Children's Fund, Kenya
  - Term: March 18, 2005 - September 30, 2006
  - Purpose: Support orphans and other Kenyan children affected by HIV/AIDS
  - Agency: USAID